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| <b>TO:</b>      | <b>CHAIR AND MEMBERS<br/>PLANNING &amp; ENVIRONMENT COMMITTEE</b>   |
| <b>FROM:</b>    | <b>GEORGE KOTSIFAS, P.Eng.<br/>MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE<br/>SERVICES AND CHIEF BUILDING OFFICIAL</b> |
| <b>SUBJECT:</b> | <b>CAPITAL WORKS CLAIM – 33M-654 RIVERBEND<br/>MEADOWS PH 3<br/>MEETING ON JULY 16, 2018</b>                              |

**RECOMMENDATION**

That, on the recommendation of the Director, Development Services, the request for additional payment of the Capital Works Budget claim under 33M-654 Riverbend Meadows Phase 3 **BE DISMISSED** as the original claim amount has been paid out in accordance with the Subdivision Agreement provisions.

**PREVIOUS REPORTS PERTINENT TO THIS MATTER**

N/A

**BACKGROUND**

On May 22, 2018, Municipal Council resolved the following:

*That the request from C. Linton, Developro Land Services Inc., for delegation status relating to Riverbend Meadows Phase 3, BE REFERRED to the Managing Director, Development and Compliance Services and Chief Building Official to review and to determine the appropriate process to be undertaken. (2018-T04) (4.5/9/PEC)*

A complaint letter (attached) was also received from Developro Land Services Inc. on behalf of Pemic Land Corp, the developer of Riverbend Meadows Subdivision Phase 3 (33M-654). The letter requested additional payment of a Capital Works Budget claim of approximately \$16,000 for the replacement of a private driveway related to a sidewalk construction project. It is noted that the letter incorrectly references the Urban Works Reserve Fund (UWRF) rather than the Transportation Capital Works Budget as the source for the original claim. As further discussed below, the developer's contractor replaced the entire driveway in order to meet the City's design standards for a maximum of 4% cross fall grade requirements within new subdivisions. The developer claims that these costs were not contemplated in the original construction estimate which was carried forward under the Subdivision Agreement.

**ANALYSIS**

Under the Riverbend Meadows Phase 3 Subdivision Agreement, the developer was required to construct sidewalks fronting eight existing homes on Logans Trail and Logans Run which would be claimable under the Transportation Capital Works Budget. The agreement stipulates that the claim be limited to the maximum amount of \$25,600 excluding HST, which was based on the developer's Professional Engineer's estimate for construction of the works.

Following review of the submitted claim, Pemic Land Corp was paid \$25,600 excluding HST under the Capital Works Budget on January 19, 2017. The reimbursed claim included all costs incurred by the developer for sidewalk construction, engineering fees and a share of the public

portion of the driveway replacement within the right-of-way up to the maximum allowable amount.

The additional funding that is being requested is for the private portion of the driveway. Generally in order to accommodate new sidewalk construction, the existing driveway would be saw cut to allow for the new sidewalk. If required, in order to meet the maximum 4% cross fall grade requirements, the public portion of the driveway within the road allowance may be replaced at the City's cost. As per section 9.4.3 of the City of London's Design Specifications & Requirement Manual, the private portion of the driveway surfaces can have a maximum grade up to 10%. Therefore, replacing the private portion of the driveway to meet 4% cross fall is not a requirement of the City and shall be the developer's cost. Replacing the entire driveway is not consistent with City- led projects and replacement of the private portion of the driveway would be at the homeowner's expense. The City works with the homeowner on a case by case basis to reach an agreement, however it is understood that replacement of the private portion of driveway is not a City expense.

It is noted in Developro's letter that a City-led sidewalk replacement project on Bradley Ave exceeded the 4% cross fall grade requirements. The reason this standard does not apply in this situation is because this was a lifecycle sidewalk replacement project and the design standards specifically reference the 4% cross fall requirement applies to new subdivisions or developments. The City attempts to correct any cross fall grade deficiencies through their lifecycle replacement programs, however in older areas it can be impractical to do so, as opposed to new subdivisions where the grades are generally more level.

The additional funding requested by the developer is recommended to be declined based on the following:

1. It is understood that the driveway was in place prior to registration of the Subdivision Agreement; therefore it is reasonable to assume that any requirements to meet the City's design standards should have been known and included in the Engineer's estimate.
2. The 4% cross fall requirement is not applicable to the private portion of the driveway, hence replacement of the private portion of the driveway was never contemplated nor requested by City staff.
3. The additional funding request is for works completed on private property and in accordance with City's practices, these costs would not be funded through the Capital Works Budget.
4. The Capital Works Budget claim has been paid out in accordance with the Subdivision Agreement up to the maximum allowable amount.

## **CONCLUSION**

The complaint letter submitted by Developro Land Services Inc. on behalf of Pemic Land Corp, regarding the request for additional payment related to the construction of the private driveway was reviewed and discussed with Developro Land Services Inc. It is Staff's opinion that the Transportation Capital Works Budget claim has been paid out in accordance with the Subdivision Agreement and that request for additional payment to Pemic Land Corp be dismissed.

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| <b>PREPARED BY:</b>   | <b>CONCURRED IN BY:</b>  |
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| <b>JASON SENESE, CGA, CPA, MBA<br/>MANAGER, DEVELOPMENT FINANCE</b> | <b>RAFIQUE TURK, M.Eng., P.Eng.<br/>MANAGER, DEVELOPMENT<br/>ENGINEERING, DEVELOPMENT<br/>SERVICES</b>                         |
| <b>RECOMMENDED BY:</b>  | <b>SUBMITTED BY:</b>   |
|   |  |
| <b>PAUL YEOMAN, RPP, PLE<br/>DIRECTOR, DEVELOPMENT SERVICES</b>     | <b>GEORGE KOTSIFAS, P.Eng.<br/>MANAGING DIRECTOR, DELVELOPMENT<br/>AND COMPLIANCE SERVICES AND CHIEF<br/>BUILDING OFFICIAL</b> |

Attachment: April 20, 2018 letter titled *Riverbend Meadows Phase 3, 33M-654* from Developro Land Services Inc.

Cc.: Kelly Scherr, Managing Director, Environmental & Engineering Services & City Engineer  
Anna Lisa Barbon, Managing Director, Corporate Services and City Treasurer and Chief Financial Officer  
Craig Linton, Developro Land Services Inc.